

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

(Northern Division)

-----X
IN THE MATTER OF THE COMPLAINT :

ORIGINAL

OF ETERNITY SHIPPING, LTD. AND :

EUROCARRIERS, S.A. FOR : Civil Action

EXONERATION FROM OR LIMITATION : No. L01CV0250

OF LIABILITY :
-----X

Deposition of DONALD SAYENGA

Baltimore, Maryland

Tuesday, August 31, 2004

9:21 a.m.

Job No.: 1-41102

Pages 1 - 401

Reported by: Beatriz D. Fefel, RPR

DEPOSITION OF DONALD SAYENGA
CONDUCTED ON TUESDAY, AUGUST 31, 2004

208

1 question if you'd specify whether you're talking about
2 the entire wire rope including the area where it
3 failed, or the other part. You see, what I'm trying
4 to get at is whenever you ask a question like that I'm
5 forced to include a catastrophic failure. So when I
6 say I saw no abrasion, I didn't see any abrasion at
7 the point of catastrophic failure.

8 Q Thank you.

9 Okay. Did you measure the entire length of
10 the wire rope?

11 A I made no measurements at all.

12 Q Okay. Did someone else do that?

13 A Yes.

14 Q Who all was present at this -- this was
15 the -- you're referring to the October 8th, 2003
16 inspection?

17 A Yeah. I examined the wire rope in the
18 presence of a Mr. Jim Dolan and a Mr. Willem
19 Schoonmade. Other people present included a number of
20 attorneys, and that would be Mr. Clyne and Mr. Saville
21 and Mr. Veit, and a gentleman that I met there named
22 Heiner Popp, and several employees of Chesapeake

DEPOSITION OF DONALD SAYENGA
CONDUCTED ON TUESDAY, AUGUST 31, 2004

294

1 said yes because corrosion can begin immediately after
2 the lubricant is removed.

3 MR. CLYNE: Can I have the question and the
4 answer read back?

5 (Record was read back by the reporter as
6 follows: Q: Would any removal of lubricant
7 constitute an alteration of the wire rope? A: You
8 previously asked that question, and I said yes because
9 corrosion can begin immediately after the lubricant is
10 removed.)

11 A I'm happy with that answer.

12 Q Thank you. I'm satisfied with it as well.

13 You said that you examined the Coast Guard
14 report in this case, correct?

15 A I read it.

16 Q Did you read the Coast Guard's findings that
17 there was preexisting damage to the wire rope at the
18 area of the break?

19 A I immediately noted that.

20 Q And what did you do about it?

21 A I immediately in my own mind rejected the
22 idea.

DEPOSITION OF DONALD SAYENGA
CONDUCTED ON TUESDAY, AUGUST 31, 2004

295

1 Q Did you read the Coast Guard's report
2 before, or after you examined the wire rope on October
3 8th, 2000 --

4 A Long before.

5 Q And why did you reject that idea?

6 A No one can make a statement like that that
7 has any validity.

8 Q Why?

9 A This wire rope has been through a horrible
10 accident. The forces imposed on it during the
11 accident altered forever the structure of the wire
12 rope to a degree. They can never be put back to where
13 they were immediately prior to the accident. So the
14 best thing anyone could do would be to examine it and
15 make a statement that would not involve the phrase
16 "preexisting." It would involve a phrase like "at the
17 time of" or "during the accident," because the
18 implication of the damage I saw was that it happened
19 in very rapid succession, immediately at the moments
20 prior to the accident. That was the conclusion I
21 reached.

22 Q Do you recollect whether the Coast Guard

1 found evidence of --

2 A They had --

3 Q -- corrosion?

4 A I'm sorry. Say it again.

5 Q Do you recollect as to whether the Coast
6 Guard found evidence of corrosion?

7 A I don't recollect the Coast Guard finding
8 evidence of corrosion.

9 Q You do not?

10 A I do not.

11 Q A section of the wire rope was removed at
12 the request of the Coast Guard and the assent of the
13 vessel owners and managers, correct?

14 A I got that information from what I read,
15 yes.

16 Q Okay. And what is it that you read that led
17 you to that conclusion?

18 A That statement in the Coast Guard report
19 that a section was removed.

20 (Mr. Saville left the room.)

21 Q Okay. Have you been provided with any
22 document as to what was done with that section?

DEPOSITION OF DONALD SAYENGA
CONDUCTED ON TUESDAY, AUGUST 31, 2004

310

1 things.

2 MR. ASPERGER: Okay. Let's take a break.

3 Thank you.

4 (A short recess was taken.)

5 (Mr. Saville and Mr. Veit were not present
6 after the recess.)

7 BY MR. ASPERGER:

8 Q Do you have with you today the wire, sample
9 of the wire that you removed from the wire rope during
10 your inspection of October 8th, 2003?

11 A Yes.

12 Q And is it in that envelope?

13 A Yes, it is.

14 MR. CLYNE: Take it out.

15 Q Take it out. What is in that envelope?
16 What does the envelope contain?

17 A It contains this plastic bag which has the
18 tag and the wire.

19 Q Is there anything else in the envelope?

20 A Some lubricant unavoidably, which was all
21 over my hands when I put it in the bag.

22 Q And have you been the custodian of this

DEPOSITION OF DONALD SAYENGA
CONDUCTED ON TUESDAY, AUGUST 31, 2004

311

1 piece of wire?

2 A Since October.

3 Q October 8th of 2003?

4 A Yes, I have.

5 Q So you took this with you from the
6 inspection scene?

7 A I did.

8 Q And it's remained in your possession since
9 then?

10 A Completely.

11 Q And where has it been kept?

12 A In my office.

13 Q In connection with this file?

14 A Yes.

15 Q And have you removed the wire on any
16 occasions from the plastic bag?

17 A I have not.

18 Q Has anyone else to your knowledge?

19 A No one has.

20 Q Not even counsel or any of the other --

21 A No one.

22 Q -- witnesses?

DEPOSITION OF DONALD SAYENGA
CONDUCTED ON TUESDAY, AUGUST 31, 2004

312

1 A Absolutely no one.

2 Q And the tag -- would you just read what the
3 tag says into the record, please?

4 A The tag in my handwriting says "cut at end
5 of broken strand at the catastrophic failure."

6 Q Okay. And is that in your handwriting?

7 A That's my handwriting.

8 Q Is there any documentation in which any
9 witnesses to this signed off?

10 MR. CLYNE: Objection.

11 Q As having been witnesses. Do you understand
12 what I'm asking?

13 A Yeah, the verb signed off.

14 Mr. Dolan at my request photographed me
15 cutting that wire. He certainly witnessed it and took
16 a photograph to record the event.

17 (Mr. Clyne handing.)

18 MR. ASPERGER: Thank you.

19 Q Mr. Clyne has conveniently provided us with
20 Dolan Exhibit No. 1 which is Mr. Dolan's report and
21 contains a series of photographs. Are those -- would
22 you just identify for the record which photos you're

DEPOSITION OF DONALD SAYENGA
CONDUCTED ON TUESDAY, AUGUST 31, 2004

399

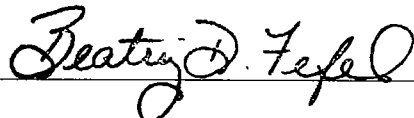
CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC

I, Beatriz D. Fefel, Registered Professional Reporter, the officer before whom the foregoing proceedings were taken, do hereby certify that the foregoing transcript is a true and correct record of the proceedings; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; and that I am neither counsel for, related to, nor employed by any of the parties to this case and have no interest, financial or otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 10th day of September 2004.

My commission expires:

August 1, 2008



NOTARY PUBLIC IN AND FOR THE
STATE OF MARYLAND
